

FILED

SEP 19 2017

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos. 15-O-14678
)	(15-O-16079) -YDR
BRENDT CURTIS BUTLER,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 211273.)	INVOLUNTARY INACTIVE
_____)	ENROLLMENT

In this matter, Brendt Curtis Butler (Respondent) was charged with nine counts of misconduct stemming from two correlated matters. Respondent failed to participate either in person or through counsel, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)



In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on December 7, 2000, and has been a member since then.

Procedural Requirements Have Been Satisfied

On February 13, 2017, the State Bar properly filed and served an NDC on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned to the State Bar by the U.S. Postal Service as undeliverable.

In addition, reasonable diligence was used to notify Respondent of this proceeding. The State Bar attempted to contact Respondent without success. These efforts included mailing a copy of the NDC to Respondent by regular first class mail at his official membership records address; emailing a copy of the NDC and follow-up emails to Respondent at his private email addresses; calling Respondent at his official membership records telephone number; and conducting a LexisNexis search for updated contact information.

Respondent failed to file a response to the NDC. On March 29, 2017, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the

motion, and his default was entered on April 21, 2017. The order entering default was served on Respondent at his membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On July 31, 2017, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on August 31, 2017.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 15-O-14678 – The De La Rosa v. Ocwen Loan Servicing Matter

Count One – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with the court's June 15, 2015 and July 20, 2015 orders compelling Respondent to: (1) file a written response to the order to show cause or appear in court for a show cause hearing; and (2) pay sanctions in *De La Rose v. Ocwen Loan*

Servicing, United States District Court, Central District of California, case No. EDCV-14-00970-MWF.

Count Two – Respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to report to the State Bar judicial sanctions against Respondent in the amount of \$1,000.

Count Three – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failing to cooperate in a disciplinary investigation) by failing to provide a substantive response to the allegations in a disciplinary investigation after being contacted by the State Bar.

Case No. 15-O-16079 – The LaFaive Matter

Count Four – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence) by failing to perform the services for which he was employed, i.e., defending his client in an automobile accident lawsuit entitled *Esurance Property and Casualty Insurance Company v. Lisa LaFaive et al.*, Los Angeles County Superior Court case No. BC540955.

Count Five – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to refund unearned fees) by failing to refund \$1,000 in unearned advanced fees.

Count Six – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failing to release file) by failing to promptly turn over his client's papers and property upon his client's request following termination of employment.

Count Seven – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Count Eight – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failing to cooperate in a disciplinary investigation) by failing to provide a

substantive response to the allegations in a disciplinary investigation after being contacted by the State Bar.

Count Nine – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address) by failing to update his State Bar official membership records address within 30 days after he was evicted from his residence at the address maintained on the official membership records of the State Bar.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Brendt Curtis Butler be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent be ordered to make restitution to Lisa LaFaive in the amount of \$1,000 plus 10 percent interest per year from December 15, 2014. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

California Rules of Court, Rule 9.20

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

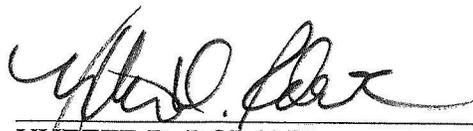
Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Brendt Curtis Butler, State Bar number 211273, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: September 19, 2017



YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 19, 2017, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

BRENDT C. BUTLER
2809 ST. GEORGE
LOS ANGELES, CA 90027

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Michaela F. Carpio, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 19, 2017.



Angela Carpenter
Case Administrator
State Bar Court